

Assembly Bill No. 1379

Passed the Assembly September 8, 2011

Chief Clerk of the Assembly

Passed the Senate September 7, 2011

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2011, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add and repeal Sections 7504.3 and 13997.4 of the Government Code, relating to economic development.

LEGISLATIVE COUNSEL'S DIGEST

AB 1379, Bradford. Economic development: public pension funds.

(1) Existing law creates various public pension systems and requires that all state and local public retirement systems secure the services of an enrolled actuary, not less than triennially, to perform a valuation of those systems. Existing law requires all state and local public retirement systems to submit audited financial statements to the Controller who is required to compile and publish a report annually on the financial condition of the systems.

This bill, until January 1, 2017, would require a state or local pension system with assets over \$4,000,000,000 to provide a report to the Controller on California investments, as defined, and California emerging market investments, as defined, that it obtains on and after July 1, 2012, and holds in its portfolio, and would permit a system to modify the definition to ensure consistency with adopted investment policies and limit reporting costs. The bill would also permit the report to include an estimate of the number of jobs created and retained as a result of the system's investment activity.

(2) Existing law creates the California Economic Development Fund for the purpose of receiving federal, state, local, and private economic development funds, and receiving repayment of loans or grant proceeds and interest on those loans or grants. Existing law establishes certain definitions in this regard and defines economic development as including policies and programs expressly directed at improving the business climate in business finance, marketing, neighborhood development, small business development, business retention and expansion, technology transfer, and real estate redevelopment.

This bill would require, for the 2011–12 and 2012–13 fiscal years, that the Board of Administration of the Public Employees' Retirement System together with the Teacher's Retirement Board

of the State Teachers' Retirement System to share with other public pension systems streamlined and cost-effective methods for identifying investments within their portfolios that meet the definitions of California investment and California emerging market investment. The bill, until January 1, 2017, would authorize the Controller to compile and publish specified investment information supplied by state and local pension systems on the Controller's Internet Web site, as provided.

(3) This bill would also make a statement of legislative findings and would declare the intent of the Legislature that retirement boards with sufficiently diversified portfolios, consistent with their plenary authority and their fiduciary responsibilities, adopt specified investment policies that meet their own unique investment objectives.

The people of the State of California do enact as follows:

SECTION 1. (a) The Legislature finds and declares the following:

(1) Public pension fund investments represent billions of dollars of financing for California communities, and the state could adopt and implement more effective economic development policies with better information on fund investments in California and in its emerging markets.

(2) Historically, economic growth in California has outpaced the economic growth rate of the nation as a whole, and the state has led the nation in export-related jobs, business startups, and innovation. However, since the subprime home mortgage crisis in 2007, California communities have struggled. With the increasing rates of home foreclosure and the tightening of the credit markets, many businesses have found their existing lines of credit inaccessible. Significant drops in consumer spending have led to workforce reductions and business bankruptcies.

(3) For much of 2009, the number of unemployed workers rose by 40,000 to 60,000 per month, and the year ended with 2.25 million unemployed California workers. While California may be emerging from the recession, unemployment is expected to remain high through 2011. Without specific intervention to support job creation and business expansion, many regions of California will be very slow to recover.

(4) As California moves forward from this recession, it is important that the state support the recovery and expansion of industries that provide quality jobs, enhance regional and global supply chains, and strengthen the state's competitiveness.

(5) Modern investment theory includes a set of concepts aimed at building a most efficient portfolio of different types of assets that yields the highest return for a given level of investor risk. Diversification is one of the key elements in building a portfolio, including diversification by asset class and by geography. Given that the United States is the largest economy in the world and that California is the largest economy in the United States, a certain portion of any fully diversified investment portfolio includes investments in California. Therefore, there is a clear alignment of interest between medium to large institutional investors and the economic recovery of California.

(6) Increasing investments in minority-owned businesses and within minority communities is vital to the future economic health of the nation and its business community. Investment in historically disadvantaged communities by public pension systems adds value for the members of those systems and increases access to financial capital for historically underserved markets and groups of people.

(7) Investments in emerging domestic markets can provide appropriate risk-adjusted returns to institutional investors including public pension funds. In 2000, the boards of administration for the Public Employees' Retirement System and the State Teachers' Retirement System each adopted a 2-percent goal for economically targeted investments. These investments are intended to create value for the members of those retirement systems while facilitating improved access to financial capital in historically underserved markets.

(b) It is the intent of the Legislature, consistent with the plenary authority and fiduciary responsibilities of the retirement boards of public pension or retirement systems under Section 17 of Article XVI of the California Constitution, that those retirement boards that have sufficiently diversified portfolios adopt California emerging market investment policies that meet their own unique investment objectives.

SEC. 2. Section 7504.3 is added to the Government Code, to read:

7504.3. (a) In addition to its annual audited financial statement submitted to the Controller pursuant to subdivision (c) of Section 7504, each state or local public retirement system with assets of over four billion dollars (\$4,000,000,000) shall include a report on California investments, as defined in paragraph (1) of subdivision (c) of Section 13997.4, and California emerging market investments, as defined in paragraph (2) of subdivision (a) of Section 13997.4, that it obtains on and after July 1, 2012, and holds in its portfolio. Investments by asset class shall be reported by fair market value and percentage of the total portfolio. The report may also include an estimate of the number of jobs created and retained as a result of the system's investment activity. The information reported by the public pension systems shall not exceed the scope of information required by the California Public Records Act.

(b) A state or local public retirement system may elect to satisfy the reporting requirements of this section by reporting on its total portfolio rather than only those investments made after July 1, 2012, if information is provided and identified consistently with the definitions in subdivision (a) of Section 13997.4.

(c) Nothing in this section shall require a retirement board to take action that is not consistent with its plenary authority and fiduciary responsibilities as described in Section 17 of Article XVI of the California Constitution.

(d) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

SEC. 3. Section 13997.4 is added to the Government Code, to read:

13997.4. (a) For the purposes of this section:

(1) "California investment" means an investment that assists in the improvement of state and regional economies. In the case of fund-to-fund investments or opportunistic investments, "California investment" may include moneys that are directed under an agreement with the asset manager to be primarily invested in California. "California investment" includes, but is not limited to:

(A) A publicly held company with a headquarters or significant operations in California.

(B) A privately held company that is headquartered in California.

(C) Real estate in California or loans on real estate located in California.

(2) “California emerging market investment” means an investment that produces competitive risk-adjusted rates of return while facilitating the improvement of traditionally underserved markets, including urban and rural areas undergoing, or in need of, revitalization where assets conducive to business development are located.

(b) A retirement board is permitted to modify the definitions and parameters established in this section for the reporting purposes required by Section 7504.3, in order to ensure consistency with its adopted investment policies and to limit its reporting costs. These definitions and parameters, along with the methodologies used to formulate the report, shall be described in its report.

(c) For the 2011–12 and 2012–13 fiscal years, the Board of Administration of the Public Employees’ Retirement System together with the Teacher’s Retirement Board of the State Teachers’ Retirement System shall share with other public pension systems streamlined and cost-effective methods for identifying investments within their portfolios that meet the definitions of California investment and California emerging market investment.

(d) The Controller may compile and publish the information that state and local pension systems are required to provide pursuant to Section 7504.3 within, or linked to, the report issued pursuant to Section 7504 and made available on the Controller’s Internet Web site. If the Controller decides to compile and publish the information provided by the pension systems, the information shall be published on the Controller’s Internet Web site within 12 months of the receipt of the information, and in no case later than 18 months after the end of the fiscal year upon which the information is based.

(e) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

Approved _____, 2011

Governor